

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

FILED
DEC 10 2010
BY **PATRICK E. DUFFY, CLERK**
DEPUTY CLERK MISSOULA

ANTHONY LANKFORD,

Plaintiff,

vs.

MIKE FERRITER, Director –DOC, DR.
LIZ RANTZ, Medical Director – DOC;
DR. FRANK RAISER, Contract
Surgeon – DOC,

Defendants.

Cause No. CV 09-00051-H-DWM-RKS

ORDER

Plaintiff Anthony Lankford is a prisoner proceeding without counsel in this civil rights action which was closed pursuant to a settlement agreement and stipulation of dismissal on January 8, 2010. Pending is Mr. Lankford's motion to compel specific performance of the settlement agreement. (Court Doc 15).

The United States Supreme Court has held,

when ... dismissal is pursuant to [Federal Rule of Civil Procedure 41(a)(1)], (which does not by its terms empower a district court to attach conditions to the parties' stipulation of dismissal) ... the court is authorized to embody the settlement contract in its dismissal order (or, what has the same effect, retain jurisdiction over the settlement contract) if the parties agree. Absent such action, however, enforcement of the settlement agreement is for state courts, unless there is some independent basis for federal jurisdiction.

Kokkonen v. Guardian Life. Ins. Co. of Am., 511 U.S. 375, 381-82, 114 S.Ct. 1673, 128 L.Ed.2d 391 (1994).

As in the *Kokkonen* case, the dismissal in this case was done pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) and was a dismissal with prejudice. This Court did not retain jurisdiction over the settlement agreement.

"Enforcement of the settlement agreement, . . . , is more than just a continuation or renewal of the dismissed suit, and hence requires its own basis for jurisdiction." *Kokkonen*, 511 U.S. at 378.


Unless there is some independent basis for federal jurisdiction here, this Court cannot enforce the terms of the settlement agreement. Federal courts lack subject matter jurisdiction over enforcement of settlement agreements such as the one alleged here.

Accordingly, the Court issues the following:

ORDER

Mr. Lankford's Motion to Compel Specific Performance of Settlement Agreement (Court Doc. 15) is denied.

DATED this 10th day of December, 2010.



Donald W. Molloy, District Judge
United States District Court